

IN THE UNITED STATES OF AMERICA
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION

UNITED STATES OF AMERICA,)
)
v.) CASE NO. 2:09CR00030-1
) (Financial Litigation Unit)
BILLIE JOE LOSSIE,)
AKA/BILLY JOE LOSSIAH,)
)
and)
)
EASTERN BAND OF CHEROKEE INDIANS,)
)
Garnishee.)

AMENDED
ORDER OF CONTINUING GARNISHMENT

This matter is before the Court on the Answer of Garnishee, filed on November 28, 2011 (Docket# 38) by the Garnishee, Eastern Band of Cherokee Indians ("Tribe"); the Response of the United States filed on December 2, 2011 (Docket# 39); the Objection to the Garnishment and Request for Hearing filed on December 5, 2011 (Docket# 41); the Response of the United States filed on December 7, 2011 (Docket#42); and this Court's Order denying the Defendant's request for hearing filed February 14, 2012 (Docket#43).

On February 10, 2011, the Honorable Martin Reidinger, United States District Judge, sentenced Defendant to serve 27 months incarceration for his convictions for involuntary manslaughter. *See Judgment* (Docket# 31). As part of the Judgment,

Defendant was ordered to pay a \$100.00 criminal assessment and restitution of \$392,064.12 to his victims. Subsequently, the United States sought to garnish Defendant's gaming *per capita* gaming revenue. On November 3, 2011 (Docket# 36), the Court entered a Writ of Continuing Garnishment as to the Eastern Band of Cherokee Indians. The United States is entitled to garnish the *per capita* payments and has satisfied the prerequisites set forth in 15 U.S.C. §1673 and other applicable statutes.

The Defendant filed an Objection to the Garnishment and Request for Hearing on December 5, 2011 (Docket# 41). The Defendant indicated an objection based on support of a minor child. The United States does not contest the distribution of child support. The United States has recently obtained a copy of the Child Support Order filed on October 7, 2004, in the Cherokee Tribal Court, Shermane L. Lossie vs. Billy J. Lossiah, File No. CV-04-298, ordering Billy J. Lossiah to pay \$468.00 per month for the benefit of the minor children. The United States received one *per capita* payment from the Eastern Band of Cherokee Indians on December 15, 2011, in the amount of \$1,455.00. The Cherokee Tribal Court confirmed that their office received \$2,808.00, (\$468.00 monthly child support obligation for a six month period), from the *per capita* distribution in December 2011, that was applied to the child support order of the Defendant.

IT IS THEREFORE ORDERED that an Amended Order of Garnishment is

hereby **ENTERED** in the amount of \$392,164.12, computed through November 2, 2011, which attaches to each *per capita* distribution of gaming revenues that exceeds any court-ordered child support obligation be garnished in favor of the United States and, upon expiration of the child support obligation, that all such revenue be garnished in favor of the United States until Defendant's restitution debt is paid in full.

Signed: February 27, 2012

Dennis L. Howell
Dennis L. Howell
United States Magistrate Judge

